REPLACMENT ATTACHMENT FOR AGENDA ITEM 49
Board of County Commissioners Meeting - August 26, 2003

SUMMARY & TIMELINE
RE: Loretta Ranieri, CHEVY WAY FLOODING (private subdivision)
Revised 08-25-03

Attachments, which were not printed with the Agenda, are included here, and respective references to them have been changed.

Neighbors of Ms. Ranieri (Ms. R) seeking assistance: Rich Budell, Richard Smith, DJ Hartley, Andy Reece, Randy Jones, Lee Stone.

FLOODING IS ISOLATED – Ms, Ranieri's property is the only one that floods. It is in a closed basin on the north side of Chevy Way. Though the south side of Chevy is also low, none of the residences floods. **Attachment 1A** - Elevation Maps.

Flooding was first reported in June, 2001. County staff was very responsive in going to observe the following day - T. Heiker, R. Burroughs, and respective staff members. **Attachment 1B** - Report and photos by Hugh Kelly, Housing Rehabilitation Specialist, dated 07/25/01, states 12 to 16 inches of water in residence.

In July, 2001 Commissioner Rackleff's office was contacted by adjacent neighbors of Ms. Ranieri's reporting stormwater in house (10 inches). This is a private subdivision, and neighbors regularly assist with getting water out of house. They would like the County to accept donation of portions of their lots for a retention pond to help relieve flooding. Two are engineers and feel this is entirely feasible. They are also requesting that the county assist them with installation of the pond.

Between August and October 2001, Commissioner Rackleff's office requested suggested solutions from various departments as summarized below:

1. Housing Office – Shelley Murphy met with Ms. R. and advises that she does not qualify for ANY of the County's rehab or relocation programs. Shelley also advises that CDBG funds are reserved for "the worst of the worst."
2. Building Inspection – Ray Burroughs (went out to observe damage). GEM's requirement (to builder) for 24" above elevation AND whether or not he complied are in question. Although the residence was considered for condemnation, since the first floor is almost completely destroyed, this was ruled out early in the process.
3. County Attorney – Confirmed July 10, by letter that county has no liability for flooded property (per mtg at GEM). Also states that owner is free to take recourse against the builder. Ray Burroughs pursuing whether builder may be willing to contribute to repairs, however, this would require raising house up to prevent future flooding.
4. Stormwater - Theresa Heiker states that FEMA monies are not available to "repair," but must be spent for "prevention" in areas of recurring flooding– does not specifically apply to isolated flooding such as this. Theresa subsequently advised

that the County is constrained by statute from accepting "donation" of land or assisting with digging a retention area.

5 Mr. Budell reports that the neighborhood is probably not willing for the County to take over the S/D through 2/3 2/3 Program, which would make it eligible for retention area and other improvements.

6 In August, 2001, Ray Burroughs informed Ms. R. that the builder may be willing to assist by repairing or rebuilding any damaged areas (sheetrock, cabinets, etc). In subsequent letters (2002) the builder denied willingness to assist. It remains that residence must be raised to new elevation, so that repairs would not be destroyed.

7 Ms. R. clarifies that she does not desire or plan to litigate with the County.

8 **Attachment 1C** - Ray Burroughs letter to Ms. R. with all GEM documents pertaining to permitting for construction of the residence.

9 **Attachment 1D** – All other correspondence related to this issue. It contains items from Ms. Ranieri, the County Attorney, the Building Department, Mr. Baldwin and his attorney, Ms. R's attorney (at the time), and a DBPR complaint filed by Ms. R. Essentially, the builder and his attorney deny any responsibility to assist in this matter. And, the County is also not liable for flooding or damage to the residence.

10 The residence was built in 1993 by Tom Baldwin. Baldwin Construction voluntarily inactivated its county license in March, 1997, and voluntarily dissolved as a Florida Corporation in March, 1998.

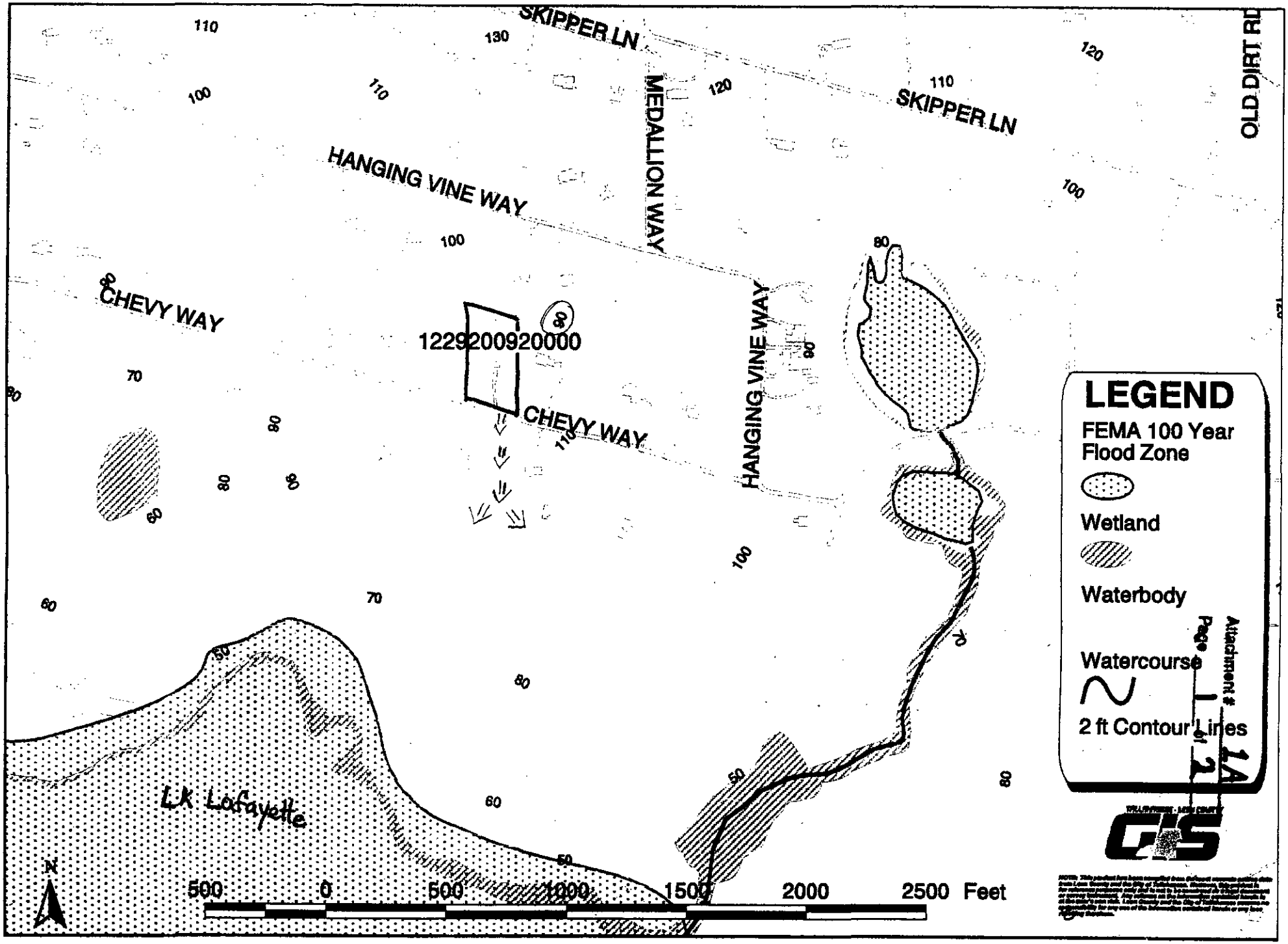
11 Between February, 2002 and July, 2003 Commissioner Rackleff's office heard nothing on this issue, and presumed that flooding was somehow rectified.

12 In August, 2003, Commissioner Rackleff's office was contacted by Rich Budell (representing surrounding residents) again presenting the option of donation of land for a holding pond for the County's consideration and requesting that we find a way to assist Ms. Ranieri.

Mr. Budell reports that the first week in August, 10 neighbors assisted Ms. R. for a week, and several subsequent days by pumping out the residence and sending the water to an adjacent (willing) neighbor at their expense.

Other Facts:
Septic Tank is under water at each event;
First floor is now exposed concrete – carpet and vinyl removed in 2001;
The ground is saturated, such that, pumping is required with each rain over 2";
The residence's first floor is destroyed and unsanitary;
Mr. Randy Jones has allowed the pumped water to sheet flow through his property on south side of Chevy Way, down to Lk. Lafayette, about 1 mile;
Mr. Budell adds that Ms. R's property flooded many times in the summer of 2002, however, he did not report it to Com. Rackleff's office;
Flooding previous to 2001 was in garage and around residence, but water did not crested door thresholds until 2001, when it was reported to the County.

Due to the urgency of this matter, neighbors requested to be on August 26, 2003 BOCC Agenda, to present their concerns.

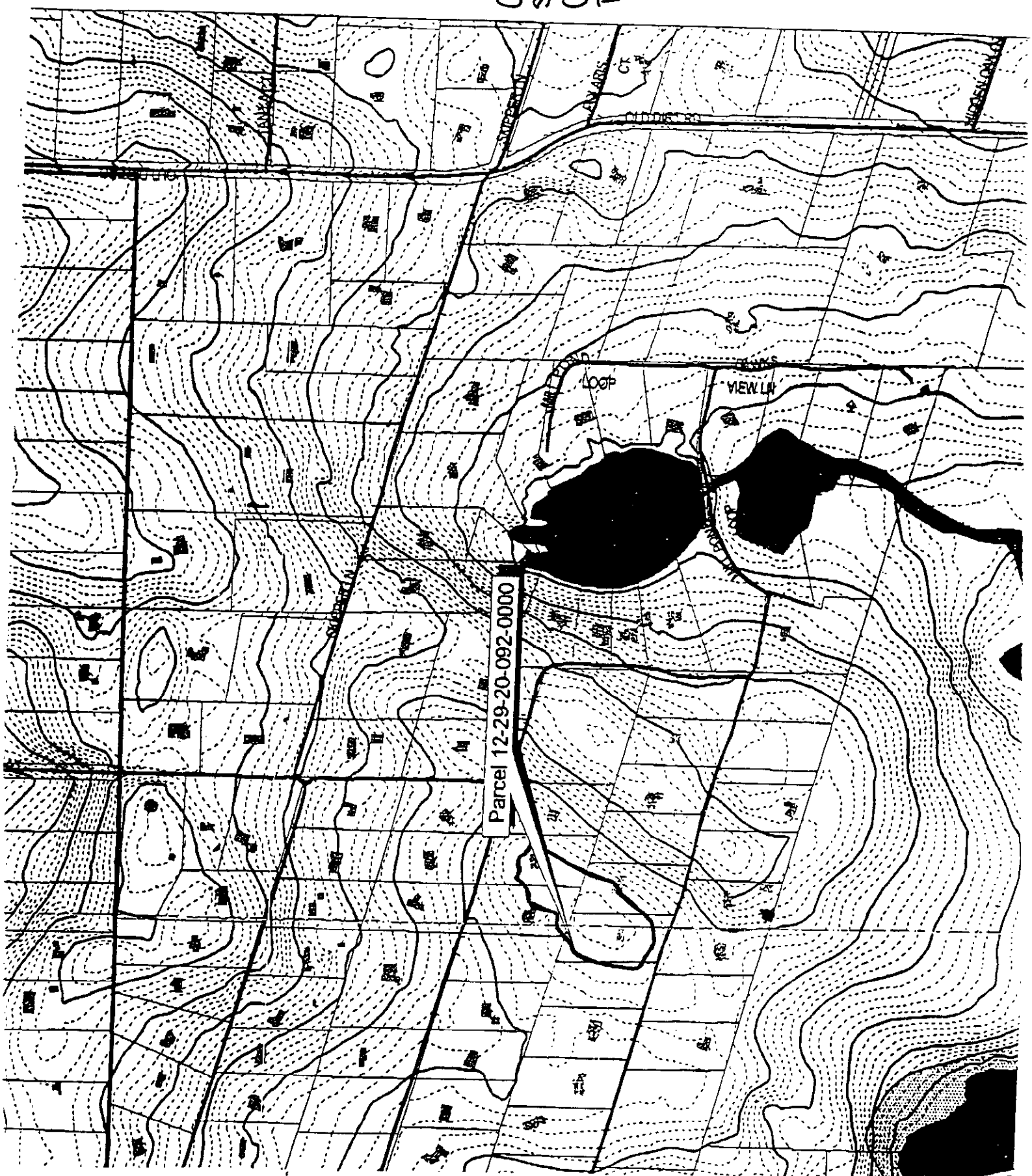


Attachment # 1A
Page 1 of 2

5

Attachment # 1A
Page 2 of 2

Clearly shows Closed Basin



BOARD OF COUNTY COMMISSIONERS
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION HOUSING AND HUMAN SERVICES

explicit info. by staff

MEMORANDUM

TO: Christine Murtha
Housing Specialist

FROM: Hugh Kelly
Housing Rehabilitation Specialist

DATE: July 25, 2001

SUBJ: Tropical Storm Allyson – Flood
Loretta M. Ranieri
6702 Chevy Way
P. O. Box 842 – 32302

I have conducted a site visit to this property and gather as much information as possible.

Property:

The property is located in an unrecorded subdivision know as Alford Propor.

Actual site location address is: 6702 Chevy Way
Tallahassee, Florida 32311

Inspection results

In viewing the attached pictures it is very obvious the property flooding during the torrential rains of Tropical Storm Allyson.

By the hundred year flood maps this property is not in a flood plane. Because of this the owner was not prepared and did not have flood insurance.

Ms. Ranieri informed me that because the property is not located in the hundred year flood plane, flood insurance was not available.

Ms. Ranieri stated that several years back, the property came close to flooding however the water never enter the structure. The water level was within a couple of inches of entering the main structure. The garage was flooded to some extent the first time. Maybe inch or two of water. The garage floor is approximately four inches lower than the house floor.

After almost flooding , the owner hired an excavation company to build swells and a ditch to divert the water from the home. She also had a water retention area dug on the back half acre of the two acre parcel. None of this was sufficient this time.

The downstairs living area, (this is a two story structure) had approximately twelve to sixteen inches of water covering the entire area. The sheetrock was damaged and has been removed by the homeowner. See attached photos.

Also attached is copies of the photos the homeowner took for insurance purposes. — Some photos attached

Options

It is my understanding the homeowner does not qualify (income) for any of our programs. Therefore, any options that are stated would be the sole responsibility of the homeowner.

Options 1 & 2 are similar. The difference would be the application of the potential solutions.

Option 1

Have a structural engineering company design a method of lifting the existing structure from the exiting concrete floor. Approximately four feet. Then have a construction add to the existing concrete floor (form and pore) a secondary pore of approximately eighteen to twenty-four inches. The thickness of the concrete floor would be the standard 4 inches. Once this is completed lower the structure to the new concrete floor.

Option 2

Have a structural engineering company design a method of lifting the existing structure from the exiting concrete floor. Approximately four feet. Then have a construction remove the existing concrete floor and build an off grade floor such that the structure when complete would be at least eighteen to twenty-four inches above the existing floor level.

Option 3

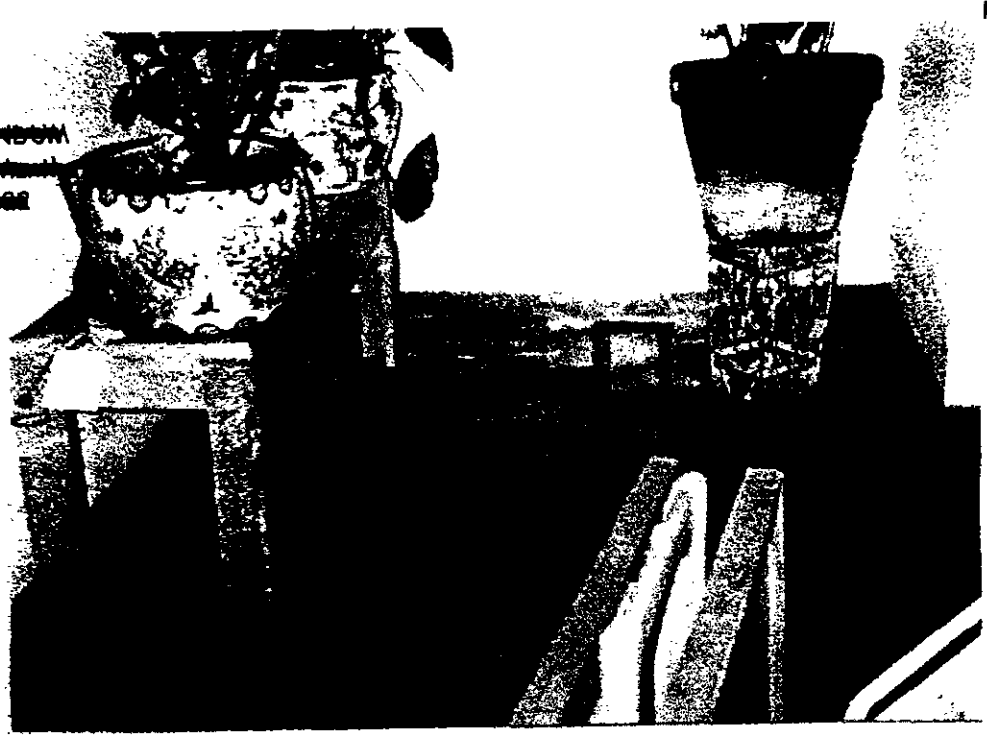
Have a civil engineer develop a method of expanding the water retention area to a accommodate 2.5 to 3.0 feet of storm water runoff. Then have an excavation company implement the construction of prescribed alteration to the storm water retention developed by the engineer.

/hk

ATTACHMENTS

Photos provided by owner ✓
Photos taken by Housing Staff
Tax Information & GIS map
Property deed and Legal description

xc: Shelley Murphy, Director, Housing & Human Services
Deborah Flowers, Affordable Housing Coordinator



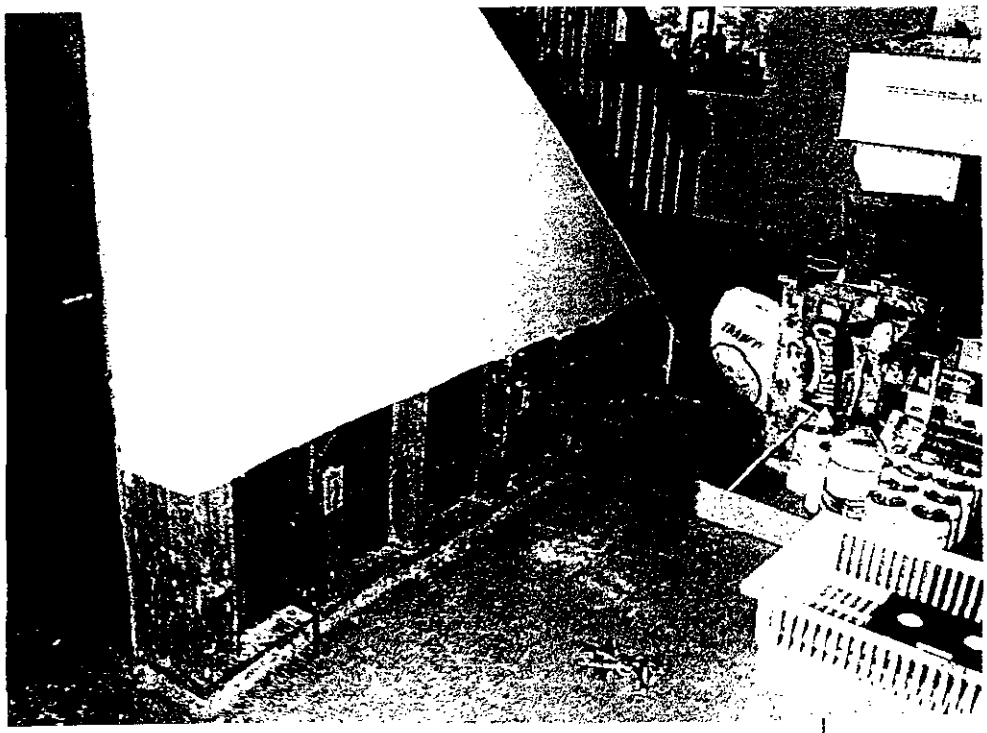
Water to 10" inside home

Sheetrock removed '01 remains down (first floor)

Concrete floor exposed

Loretta M. Ranieri
6702 Chevy Way
Alford Propor

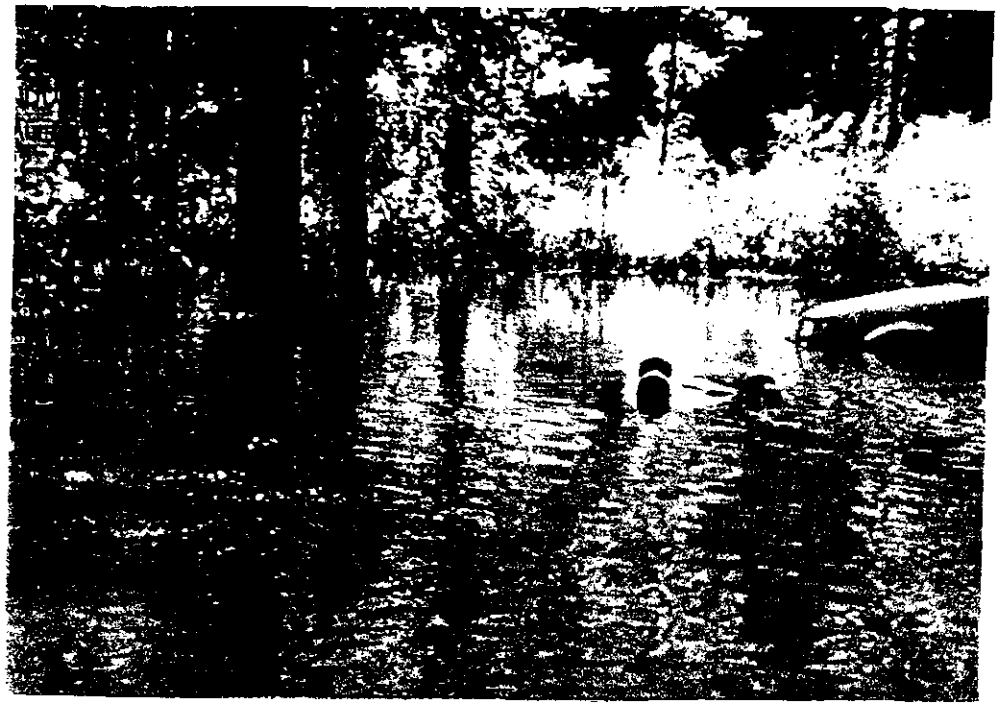
Photo taken by Ms. Ranieri



Loretta M. Ranieri
6702 Chevy Way
Alford Propor

Photo taken by Ms. Ranieri

yard



yard

Attached: all GEM docs.

Attachment # 1C
Page 1 of 5

BOARD OF COUNTY COMMISSIONERS

301 South Monroe Street
Tallahassee, Florida 32301
(850) 488-4710

Community Development
Department of Growth and
Environmental Management
Building Inspection Division
3401 West Tharpe Street
Tallahassee, FL 32303
(850) 488-9300

Commissioners
BILL PROCTOR
District 1
JANE G. SAULS
District 2
DAN WINCHESTER
District 3
TONY GRIPPA
District 4
BOB RACKLEFF
District 5
RUDY MALOY
At-Large
CLIFF THAELL
At-Large

PARWEZ ALAM
County Administrator
(850) 488-9962

HERBERT W.A. THIELE
County Attorney
(850) 487-1008

August 14, 2001 A

Ms. Loretta Ranieri
P.O. Box 842
Tallahassee, Florida 32302

RECEIVED
AUG 16 2001
BY:

Re:Flooding at 6702 Chevy Way

Dear Ms. Ranieri:

As per your request, please accept this letter as a written follow-up to our meeting of August 3, 2001. The issue at hand being flooding of your residence located at 6702 Chevy Way. I have attached copies of all our records as they pertain to the construction on your property. As we discussed, I do not believe your home complies with the elevation requirements as stipulated by the geotechnical engineer hired by your builder as contained in the flood letter issued in April of 1993.

I have had discussions with both of these companies, and in an effort to avoid litigation they both indicated a willingness to assist you in mitigating the flood damage to your residence. Specifically, the builder indicated he would replace or repair damaged sheetrock, flooring and cabinets. Additionally, should you choose to pursue creating a private holding pond on your property to store the stormwater run off away from your house, the geotechnical firm agreed to provide the engineering necessary to determine the feasibility of such an option and assist with permitting as appropriate. However, funding for the actual construction of the holding pond would be your responsibility. ← county could take advantage of this

Should you need additional assistance, please do not hesitate to contact me. I remain;

Your public servant,

Ray Burroughs
Director of Building Inspection

Attachments
RB/mlt
xc: Tom Baldwin, Marlin Design and Construction
Don Bishop, Tallahassee Soil Tech
Bob Rackleff, County Commissioner
Herb Thiele, County Attorney

JR INCORP

L:\CO\GENERAL\RANARI.WPD

Docs for Confer Call at GEM 9-26-01

0119 0000 0882

PERMIT # 93-833

Lien OK/

ENVIRONMENTAL MANAGEMENT
PERMIT APPLICATION FORM
ENVIRONMENTAL MANAGEMENT ACT, ORDINANCE 89-44

SINGLE FAMILY/MOBILE HOME

Check one: X Single Family Home Fee: $ 75.00
___ Mobile Home Fee: $ 75.00

Please provide the following information:

Owner/Agent: Tom Baldwin 06/29/93 3:26PM 0000#3107

Parcel Number: 12-29-20-092-000 Acreage: +2 ac

Location: Cherry ~~Road~~ Way LOT 92 6702

Description of activity: S.F.R.

J00930260
TREE $100.00
ENVSF $75.00
CHECK $175.00

Baldwin Construction Inc.
3813-7 N. Monroe St. Ste. 27
Tallahassee, FL 32303
(904) 562-3950

NOTE: Answers to the following questions will determine whether this project either requires or does not require further environmental review. Further environmental review is required for any project in an environmentally sensitive area and takes approximately seven working days to complete. When a project does not require further review, an environmental management permit may be issued with the building permit. Additional permit fees may be required if certain environmental features are present on the proposed development site.

Please provide the following information:

1. How is the property zoned? A2 - RP

2. Are there any wetlands, lakes, streams, rivers, or drainage or conservation easements on or near property? ___ Yes X No

   If yes, what is the distance from building site? ___ Feet

3. Are there any sinkholes, ravines or springs on the property? ___ Yes X No

4. Are there any trees, 18 inches in diameter or larger, to be removed? X Yes ___ No

   If yes, indicate size and location on site plan. ✓

1 of 4

49

0119 0000 0883

5. Are there any steep grades or slopes, 10% or greater, on the site? ___ Yes X No

6. How much fill including foundation? 96 Cubic Yards

7. Will there be any land cleared other than that needed for access and immediate construction area? ___ Yes X No

8. Is the property subject to flooding? (See Flood Letter) ___ Yes X No

9. Is driveway over 100 feet in length? (NATURAL DRIVE) X Yes ___ No

10. Is the property located on a canopy road? Check below:

- o Meridian Road SR 155 from Seventh Avenue to Georgia State line. ___ Yes X No
- o Magnolia Drive - Centerville Road ___ Yes X No
- o Moccasin Gap Road from Seventh Avenue to SR 59 ___ Yes X No
- o Miccosukee Road from Capital Circle to Moccasin Gap Road ___ Yes X No
- o Old St. Augustine Road from East Lafayette Street to W.W. Kelley ___ Yes X No
- o Old Bainbridge Road from Raa Avenue to Capital Circle ___ Yes X No

NOTE: The Director of Growth and Environmental Management may revoke any permit if approval of the permit was based on incorrect information furnished by the applicant.

Development shall be conducted in a manner so as not to damage adjacent or downstream properties. Environmental management control measures may be required.

DETERMINATION

✓ Project does not appear to require further environmental review. Issue environmental permit with building permit.

___ Project requires additional environmental review. Forward application to Review staff.

Signature: Sandra M. Roper Date: 5/6/93
Authorized County Staff

Signature: [illegible] Date: 4-29-93
Owner/Agent

Baldwin Construction Inc.
3815-7 N. Monroe St. Ste. 27
Tallahassee, FL 32303
(904) 562-3950

10/21/91

Fill limited to use within foundation with no off site impact.

2 of 4

49

DATE: 11-5-92 PERMIT NO.

Tallahassee Soil Tech, Inc.

GEOTECHNICAL ENGINEERING
3045 WEST THARPE STREET
TALLAHASSEE, FLORIDA 32303
PHONE 576-1281

LEON COUNTY FLOOD PROTECTION CERTIFICATION

Location/Address of Property: Lot 92, Alford Properties
Parcel # of Property: 12-29-20-092-000-0
Section: _____ Township: _____ Range: _____
Applicant: Baldwin Const.
Type of Development (Circle all applicable categories)
Single Family Residential, Commercial, Multi-family, Subdivision
Excavating Required? Yes/No Fill Required? Yes/No
Buildings and/or any other structures? Yes/No
Other Alterations (Specify): _____
Location in reference to Floodplain (check one)
A) _____ Some or all of the above referenced parcel is located within the existing 100 year flood elevation (base flood elevation). This elevation is established as _____ MLS, NGVD.
B) XXX All of the above referenced parcel is at or above the flood protection elevation.

If "A" above is checked, complete the following items as required and attach supporting data.

1. If residential-Required floor elevation _____ (Circle one of the following) MLS, NGVD, other identifiable Bench Mark.
2. If commercial-Required floodproofed elevation _____ (Circle one of the following) MLS, NGVD, other identifiable Bench Mark.

I hereby certify that the above referenced parcel has been visited and the applicable flood maps and other pertinent topographic data has been examined under my responsible direction and that the above information is true and correct to the best of my engineering knowledge and I am a duly registered engineer in the State of Florida.

*NOTE: Due to lowness of parcel, maintain floor elevation a minimum of 24" above existing grade at the house site.

Signature: Clayton E. Anderson
Name: Clayton E. Anderson, P.E.
Registration No: 26735

I understand that the issuance of any permits is contingent upon the above information being correct and that the plans and other supporting data have been or shall be provided prior to the framing inspection of any structure. I furthermore agree to comply with all applicable provisions of Leon County Ordinance #82-60 and any other laws, rules and ordinances that might effect the proposed development.

Applicant Signature or other Authorized Person

Date: 4-93

3 of 4

49

TO SCHEDULE INSPECTIONS
CALL 488-4704

LEON COUNTY PERMIT

POST THIS CARD SO IT IS VISIBLE FROM STREET

TO DISCUSS A PROBLEM WITH AN INSPECTOR PLEASE CALL 50-0755 BETWEEN 7:30-8 AND 4:30-4:3

INSPECTION

BUILDING				ELECTRICAL			PLUMBING			MECHAN.
FOOTING	SLAB	FRAMING	INSP.	TEMP.	SLAB	ROUGH	ROUGH	TUB SET	TOP OUT	ROUGH
BY	OK	OK	OK			7-9-93		7-6-93		OK
DATE	6-15-93	7-23-93				TG	6-8-93	TG		7-23-93
LINTEL	WALL BD.	POOL	FINAL	POOL	FINAL		POOL	SEPTIC	FINAL	FINAL
BY					8-10-93					
DATE					TG			10-7-93	8-26-93	

RECORD

GAS		FIRE	
ROUGH	FINAL	WALL BD	FINAL

FAILURE TO COMPLY WITH THE MECHANICS' LIEN LAW CAN RESULT IN THE PROPERTY OWNER PAYING TWICE FOR BUILDING IMPROVEMENTS.

IMPORTANT NOTICE. ALL WORK WILL BE PERFORMED IN ACCORDANCE WITH LEON COUNTY ZONING, BUILDING ORDINANCE AND STATE LICENSE REGULATION — PERMIT VOID IF WORK IS NOT STARTED WITHIN 6 MONTHS — PERMIT MAY BE VOIDED FOR VIOLATION OF LEON COUNTY ORDINANCE.

ADDITION TO THE REQUIREMENTS OF THIS PERMIT, THERE MAY BE ADDITIONAL RESTRICTIONS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. (Section 553.79 (10), Fla. Stat.)

APPROVED PLANS MUST BE RETAINED ON JOB AND THIS CARD KEPT POSTED UNTIL FINAL INSPECTION HAS BEEN MADE WHERE A CERTIFICATE OF OCCUPANCY IS REQUIRED, THE BUILDING SHALL NOT BE OCCUPIED UNTIL CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED.

Property Location	[illegible]

DESCRIPTION	FEE
BUILDING PERMIT FEE	$417.50
PLUMBING PERMIT FEE	$54.00
ELECTRICAL PERMIT FEE	$75.30
MECHANICAL PERMIT FEE	$120.00
STATE ROOM FEE	$20.43
	$.00
	$.00
	$.00
	$.00
	$.00
	$.00
	$.00

93833

OWNER	FL ZN	ZONE	PARCEL I.D NO
BALDWIN CONSTRUCTION	NO	02	12 [illegible] 20 092 0000

CONTRACTOR	MFFE	SUBDIVISION
BALDWIN CONSTRUCTION		N. A.

LICENSE #	TYPE IMPR	USE
CGC009872	NEW CONSTRUCTION	SINGLE FAMILY

CONSTR	SQ FT.	UNITS	PARKING
	002045	000	

DESCRIPTION OF WORK

IMPACTS & ENV FEES PAID

PERMIT	ISSUE DATE	VALUATION	TOTAL FEES	ENVIRONMENTAL	SEPTIC PERMIT	DRIVEWAY
[illegible]0833	05/18/93	$140,000.00	$687.3[illegible]		$303.30	

Dennis Rich
AUTHORIZED AGENT

Roy
BUILT

NOT VALID UNLESS STAMPED PAID

AUG - 8 2001

8-7-2001

Re: 6702 Cherry Way - Lot 092, Alford Properties

Mr. Burroughs,

Per your request, this letter is to request a letter from you confirming our meeting and conversation on 8-3-2001.

You stated that my builder, Tom Baldwin, told you that he would repair and replace, once and completely, my home; including walls, floors, cabinets and carpet. You stated that he also advised me to buy flood insurance.

You also stated that, per the County Attorney Herb Thiele, Leon County is not liable nor responsible for any damages incurred on my property as a result of the flooding on June 11th. You did agree, however, that there had been an "oversight" regarding the note on the flood certificate referring to the 24" elevation on the si

I would appreciate a response from you by August 24, 2001.

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

JUL 10 2001

To: Gary W. Johnson, Director of Community Development
Ray Burroughs, Director of Building Review and Inspection

From: Herbert W.A. Thiele, Esq.
County Attorney

Date: July 10, 2001

Subject: Flooding Issue on Chevy Way in Buck Lake Area

This follows up on our discussion held at the Community Development Offices on Thursday, July 5, 2001, with regard to the flooding conditions which occurred at the home of Loretta Ranieri on Chevy Way.

As we discussed, and after a review of your files, we do not see any information which is contrary to our initial position that Leon County has no liability for the flooding event which occurred in June and which caused water to be on this property. We believe that a successful defense could be invoked with respect to any claims of trespass or inverse condemnation, as well as raising sovereign immunity.

If you wish us to become further involved in this matter, please contact the County Attorney's Office.

cc: Parwez Alam, County Administrator
Commissioner Bob Rackleff
Commission Aide Kate Brady

G:\SL\HWAT\MEMO\CHVYWAY.WPD

AUG - 8 2001

8-7-2001

Re: correspondence w/ Leon County Chief Building Inspector

Dear Mr. Rackleff,

Please find attached a copy of a letter I sent to Ray Burroughs.

Thank you,

Loretta M. Rowen

AUG - 8 2001

8-7-2001

Re: 6702 Cherry Way - Lot 092, Alford Properties

Mr. Burroughs,

Per your request, this letter is to request a letter from you confirming our meeting and conversation on 8-3-2001.

You stated that my builder, Tom Baldwin, told you that he would repair and replace, once and completely, my home; including walls, floors, cabinets and carpet. You stated that he also advised me to buy flood insurance.

You also stated that, per the County Attorney, Herb Thiele, Leon County is not liable or responsible for any damages incurred on my property as a result of the flooding on June 11th 20
You did agree, however, that there had been an "oversight" regarding the note on the flood certificate referring to the 24" elevation on the site.

I would appreciate a response from you by August 24, 2001.

I am also requesting, again, copies of information regarding the recent research done in regards to my property.

Thank you for your attention with this matter. Please feel free to call me at 671-4747 or 933-0232 if there are any questions.

Lorette Ranieri

cc: Herb Thiele
Bob Rackleff

SMITH, THOMPSON & SHAW, P.A.
ATTORNEYS AT LAW
FOURTH FLOOR
3520 THOMASVILLE ROAD
TALLAHASSEE, FLORIDA 32308-3469

W. CRIT SMITH
SUSAN S. THOMPSON*
*ALSO ADMITTED IN GEORGIA

(850) 893-4105
FAX (850) 893-7229
FAX (850) 893-4839

FRANK S. SHAW, III
DANIEL E. MANAUSA

September 14, 2001

Ms. Loretta Ranieri
P.O. Box 842
Tallahassee, FL 32302

RECEIVED
SEP 17 2001
BY:

Dear Ms. Ranieri:

My firm represents Marlin Design & Construction, Inc. I am responding to your letter of August 24, 2001. Your home was built by Baldwin Construction Inc. which has not been in existence for at least two years. Marlin Construction & Design Inc. owes you no obligation. They did not even exist at the time your house was built.

Contrary to Mr. Burrows letter to you of August 14, 2001, Marlin has not agreed and does not agree to mitigate your damages in any manner. Baldwin Construction Inc. built the house according to the plans. You obtained and maintained flood insurance for some period of time. You realized you had a problem approximately five years ago when water came to your doorstep after a heavy rain. You voluntarily canceled your flood insurance. Even if Baldwin Construction Inc. were still in existence you have an obligation to bring any action against them within four years of your occupancy or issuance of the certificate of occupancy which ever comes later. The certificate of occupancy was issued more than four years ago. You are prohibited by statute from bringing any action at this time.

Marlin Design and Construction Inc. empathizes with your situation and that of any person who has water problems but it has no obligation to you.

Sincerely,

Susan S. Thompson

SST\tlp

cc: Mr. Tom Baldwin

THOMAS G. TOMASELLO, P.A.
ATTORNEY AND COUNSELOR AT LAW

POST OFFICE BOX 13148
TALLAHASSEE, FLORIDA 32317-3148
1107 TERRACE STREET
TALLAHASSEE, FLORIDA 32303
(850) 224-9199 FAX (850) 224-8044
E-MAIL: TGTPA@earthlink.net

September 19, 2001

Via Facsimile (893-7229) & U. S. Mail

Susan S. Thompson, Esquire
Smith, Thompson & Shaw, P.A.
Fourth Floor
3520 Thomasville, Road
Tallahassee, FL 32308-3469

Re: Loretta Ranieri

Dear Ms. Thompson:

I am writing to you on behalf of Loretta Ranieri to respond to your September 14, 2001, letter.

I do not believe you can shield Mr. Baldwin from liability by playing a corporate shell game. He is the licensed general contractor who incorrectly constructed Ms. Ranieri's home. As the licensed general contractor, he is personally liable and cannot shield himself from liability by dissolving his corporation.

Spring '02

Likewise, your client is not shielded by the four year limitation referred to in your letter. The action involves latent defects, which were discovered this past summer when flood waters entered the house. Section 95.11(3)(c), Florida Statutes. The house was constructed below the elevation specified in the flood protection certification. It also appears that Mr. Baldwin, as a licensed general contractor, did not construct the foundation as specified in plans he prepared for the dwelling. Those plans specified 10" x 20" perimeter footer with 8" x 8" x 16" concrete block stem wall and fill to support the slab. The footer and stem walls were not constructed. Instead, Mr. Baldwin placed a concrete slab at grade with some minor fill in violation of the flood protection certification and his own plans. These are clearly latent defects. I also believe Ms. Ranieri has a statutory cause of action under Section 553.84, Florida Statutes.

Section 489.129, Florida Statutes, allows disciplinary proceedings against licensed general contractors. Mr. Baldwin's actions violate a host of provisions in Section 489.129, Florida Statutes. There is no limitation on actions under Section 489.129, Florida Statutes. I have contacted the Department of Business and Professional Regulation ("DBPR"), and they have mailed to me a formal complaint form, which when completed and submitted to DBPR, will be assigned to a DBPR investigator.

Mr. Baldwin has the option of doing the honorable and correct thing. He can purchase the home, or raise it to the level specified in the flood protection certification, and place it on the foundation he designed and said he would place it on, but of course did not. Or, he can defend his actions in circuit court, and before DBPR and Leon County. Ms. Ranieri wishes to resolve this matter amicably, however. Please let me know if you client is of the same mind.

Sincerely,

Thomas G. Tomasello

1276/TGT
xc Loretta Ranieri

THOMAS G. TOMASELLO, P.A.
ATTORNEY AND COUNSELOR AT LAW

POST OFFICE BOX 13148
TALLAHASSEE, FLORIDA 32317-3148
1107 TERRACE STREET
TALLAHASSEE, FLORIDA 32303
(850) 224-9199 FAX (850) 224-8044
E-MAIL: TGTPA@earthlink.net

September 27, 2001

Via Facsimile (922-8916)

Mr. Herbert W. A. Thiele, Esquire
County Attorney
Leon County Courthouse
Tallahassee, FL 32301

Re: Loretta Ranieri: 6702 Chevy Way

Dear Mr. Thiele:

Yesterday, Ms. Kate Brady asked that I send the following to you:

- August 14, 2001, letter from Ray Burroughs, Director of Building Inspection(stating dwelling not built in compliance with elevation requirements);
- Leon County Flood Protection Certification (stating floor elevation should be 24" above grade);
- September 14, 2001 letter from Susan S. Smith, Esquire (stating her client Mr. Baldwin and his various corporations are not liable); and
- September 19, 2001, letter from Thomas G. Tomasello (stating Mr. Baldwin is liable and responsible).

The dwelling was not built in compliance with the Leon County Flood Protection Certification, nor with plans for the dwelling prepared by the builder. As a consequence the dwelling is experiencing flooding.

Please call me with any questions. Thank you.

Sincerely,

Tom Tomasello

Enclosures
1276/TGT

xc Ms. Kate Brady (via facsimile 488-1670)
Ms. Loretta Ranieri

GEM Permitting & Bldg Insp. Docs

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Tallahassee, Florida 32301
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HERBERT W.A. THIELE
County Attorney
(850) 487-1008

September 28, 2001

OCT - 1 2001

Thomas G. Tomasello, P.A.
Post Office Box 13148
Tallahassee, Florida 32317-3148

Re: Response to Correspondence Concerning Loretta Ranieri

Dear Mr. Tomasello:

This letter will acknowledge receipt of your correspondence with its accompanying enclosures, dated September 27, 2001. The Leon County staff and County Commissioner Bob Rackleff, along with his Aide, Kate Brady, have had numerous conversations regarding the concerns of your client and the flooding of her property.

As we have informed these County officials, it is now and has been Leon County's position that flooding problems that may have occurred within the County do not result in liability to Leon County, unless the County has redirected or otherwise impeded the natural flow of stormwater during these rainfall events. Additionally, as you know, the case of Trianon Park Condominium Association, Inc. v. City of Hialeah, 468 So.2d 912 (Fla. 1985) is Florida law supporting that the County would not be liable, even if it was proved that the flooding to your property was somehow directly related to the inspection of the property by Leon County employees.

These statements notwithstanding, the County stands ready to assist you in whatever way necessary in order to attempt to rectify your client's (Loretta Ranieri) problems and to pursue her builder for the apparent construction defect.

Please advise as to what assistance the County can provide you in your efforts.

Sincerely yours,

OFFICE OF THE COUNTY ATTORNEY
LEON COUNTY, FLORIDA

Herbert W.A. Thiele, Esq.
County Attorney

cc: Commissioner Bob Rackleff
Gary Johnson, Director of Community Development
Kate Brady, Aide to Commissioner Bob Rackleff
Ray Burroughs, Director of Building Review & Inspection

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BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Gary W. Johnson, Director of Community Development

OCT - 4 2001

From: Herbert W.A. Thiele, Esq.
County Attorney

Date: October 3, 2001

Subject: Ranieri Flooding Issue

This memorandum follows up a conference call held with Commissioner Bob Rackleff and his Aide, Kate Brady, along with Ray Burroughs and myself, concerning the house construction and flooding claims of Ms. Loretta Ranieri.

Subsequent to that phone conference, we have received correspondence from Mr. Tomasello and our office has responded with regard to the County's official position. In a telephone conversation with Mr. Tomasello today, we agreed that the County would nonetheless assist Ms. Ranieri in pursuit of her complaints against her builder.

The purpose of this memorandum is to request the status of any citation which we may have issued to the builder for failure to comply with the plans and whether we have taken any enforcement action against the builder to require compliance with the plans for construction or to modify the house so as to either raise its level or to otherwise flood proof it against future damage.

Thank you for your assistance. If you have any questions, please contact the County Attorney's Office.

cc: Ray Burroughs, Director of Building Review & Inspection

G:\SL\CLAIMS\RANIERI.MM

Tallahassee Soil Tech, Inc.

Geotechnical/Structural Engineering
3045 West Tharpe Street
Tallahassee, FL 32303

Telephone 576-1281
Fax 576-1282

October 4, 2001

To: Marlin Const.
3813-7 N. Monroe St.
Suite 27
Tallahassee, FL 32303

RE: Flood Certificates

Dear Tom,

In reference to your letter dated October 4, 2001, your assumptions are correct. On flood letter form dated prior to January 1, 2001, the only options on our part were "A" or "B".

If any of the parcel touched or was encroached by any 100 year flood line then "A" was checked and the estimated 100 year frequency flood elevation was noted along with a minimum finished floor elevation.

If no part of the parcel touched a 100 year flood area then "B" was checked. There are at times, due to elevation changes, roads or other situations where we make recommendations, i.e.. set floor 24" above existing natural grade but that is our opinion and the builder or building inspection department have the option to adhere to our recommendation or not. It is only our recommendation. The new county form has additional items to address these situations.

I trust this will clarify our position on the flood letters issued by our firm.

Sincerely,

Donald B. Bishop
President

Marlin Design & Construction, Inc.

CERTIFIED
GENERAL CONTRACTOR
CGCA 009872
(850) 576-3978

OCT 16 2001

October 9, 2001

Bob Rackleff, County Commissioner
Board of County Commissioners
301 South Monroe Street
Tallahassee, FL 32301

Mr. Rackleff,

It has recently come to my attention that you were sent a copy of a letter written by Ray Burroughs, Director of Building Inspection, to Lorretta Ranieri, dated August 14, 2001. The letter, regarding flood damage to Ms. Ranieri's home, located at 6702 Chevy Way, was a severe misrepresentation of my position on the issue. The actual meeting and discussion between myself and Mr. Burroughs was in fact quite different than was presented to Ms. Ranieri.

I am writing this for your information, and records, so that you may be aware of my true position. Please find enclosed copies of both the original letter to Ms. Ranieri, from Mr. Burroughs, as well as the letter from our Attorney, Susan Thompson, in response.

Sincerely,

Thomas Baldwin
Marlin Design & Construction, Inc.

TLB/kk

Chevy Way

file copy

Attachment # 1D
Page 14 of 26

BOARD OF COUNTY COMMISSIONERS

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Tallahassee, Florida 32301
(850) 488-4710

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County Administrator
(850) 488-9962

HERBERT W.A. THIELE
County Attorney
(850) 487-1008

October 12, 2001

Tom Tomasello, Esq.
Post Office Box 13148
Tallahassee, Florida 32317-3148

Re: Ranieri Flooding Issue

Dear ~~Mr. Tomasello~~ Tom:

This letter is to advise you that Ray Burroughs has spoken with Mr. Baldwin regarding the above-referenced matter and was told by Mr. Baldwin that he was advised by his attorney not to correct the flooding damage at the Ranieri residence.

Please advise what further steps you would like the County Attorney's Office to take in trying to help your client to resolve this matter.

Sincerely yours,

OFFICE OF THE COUNTY ATTORNEY
LEON COUNTY, FLORIDA

Herbert W.A. Thiele, Esq.
County Attorney

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County Administrator
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HERBERT W.A. THIELE
County Attorney
(850) 487-1008

October 30, 2001

Tom Tomasello, Esq.
Post Office Box 13148
Tallahassee, Florida 32317-3148

Re: Status of Discussions Regarding Ranieri Matter

Dear ~~Mr. Tomasello~~ Tom:

This letter is to follow-up and inform you of the County's recent activities concerning the flooding problems of Ms. Ranieri's residence.

Our office had conversations last week with the Director of Building Review and Inspection, Ray Burroughs, who has had further conversations with Ms. Ranieri's builder, Mr. Baldwin. Although we had received some indication that Mr. Baldwin was willing to rectify the problem with the home, he has been reluctant to confirm that, alleging last week that he was waiting on his builder's risk insurance company to provide him with recommendations. Mr. Baldwin indicated that he would contact Mr. Burroughs when he had received such information, but to date we have not received anything further.

Further, it was also alleged that while the Builder may be willing to effectuate repairs, Ms. Ranieri had indicated to the Builder that she merely wanted him to purchase the home rather than effectuate repairs. Is that the position of your client? Please advise.

Sincerely yours,

OFFICE OF THE COUNTY ATTORNEY
LEON COUNTY, FLORIDA

Herbert W.A. Thiele, Esq.
County Attorney

cc: Commissioner Bob Rackleff
Gary Johnson, Director of Community Development
Ray Burroughs, Director of Building Review & Inspection

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DBPR Complaint Letter

Jan. 7, 2002

Dear Sir or Madam,

Please find an enclosed completed complaint form and information regarding my complaint.

I have tried to work out the problem with the builder, but as you can tell from the correspondence, I can not get any cooperation, although he had admitted that there was an error, and it has been proven that the house was not built according to the requirements stated by the engineer regarding elevation. (See enclosed certification by Soil Tech, Inc) Attachment When my home nearly flooded in Oct 1994, I took responsibility and had work done on the surrounding area because the builder claimed he had met the minimum 2' elevation requirement. The water was up to the windows, but did not come in. When my home flooded in June, 2001, I called the builder again. He came out and admitted to me that the house was low. This time I hired a land surveyor, and he confirmed that the house was, indeed, not built according to the specified elevation requirements (See enclosed copy of the certification). I also had

the County Inspector come out to check the problem. Actually, two inspectors came out. They agreed that the house was built below elevation requirements. (See enclosed letter). Although I gave my builder a copy of the results of my survey, he had his land surveyor, Vern Taylor and Assoc, Inc, also check. I was promised a copy of that survey, but did not receive one. I wrote to my builder expressing what I thought was necessary to resolve the problem (see enclosed letter) and received a response from his attorney, which led me to hiring my own attorney, Tom Tomasello. After some correspondence with the builders' attorney, Mr. Tomasello advised me to contact DBPR.

Please contact me at the numbers listed below for further information or questions:

HOME 671-4747
WORK 561-5144
CELL 933-0232

With sincere appreciation,

Loretta Ranieri

LORETTA RANIERI
P.O. BOX 842
TALLA. FL. 32302

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
(CONTRACTOR CASES)
PAGE 2. COMPLAINT FORM

1/6/02

Dear Complainant:

In addition to your complete written statement, we are requesting documentation of your contractual relationship with the contractor and evidence supporting your allegations in order to investigate your complaint.

All questions listed below must be answered in order to find legal sufficiency per Chapter 455.225(1), F.S. When returning this complaint form, please send us readable copies of the documents below that you have not already sent us.

✓1. Contract between you and the contractor
✓2. Proof of payment to contractor (cancelled checks-front and back, receipts, closing statements, etc.)
✓3. Building permit, permit application, inspection record, notice of violation ,notices of code violation, certificate of occupancy; you can get this information from your local building department
✓4. Correspondence relating to your complaint
5. Liens, judgments and notices to owner, including copies of related work orders, bills, subcontracts
✓6. Other papers you feel would be helpful to us (Photos)
7. Guarantee paperwork, Warranties

1. I am complaining in my capacity as:
   ✓ Homeowner ___Subcontractor ___Supplier ___Building Dept. ___Contractor
   ___Owner of commercial structure worked on by contractor
2. Check the category that best summarizes the work the contractor did for you or that you were involved in:
   ✓ Built a house ___Built addition to house
   ___Remodel house ___Built commercial structure
   ___Remodel or built addition to commercial structure
   ___Re-roof entire house ___Roof work, commercial
   ___Re-roof or repair part of the roof of house ___Built a pool at house
   ___Air-conditioning or heating work at residence ___Electrical work
   ___Other, as follows: _____
3. Please circle the letter(s) for the category that best describes your basic complaint:
   (a) Poor workmanship by contractor
   (b) Job finished, but contractor will not correct problems
   c. Roof leaks, contractor will not repair
   d. Contractor failed to pay subcontractors/suppliers
   e. Contractor taking unreasonably long to do job
   f. Contractor abandoned job
   g. Financial dishonesty/misconduct by contractor

BASIC BACKGROUND DATA

4. Was contract in writing? ✓ Yes ___No
5. Contract price $ 92,900.00 Date on contract: FEB. 12TH, 1993
6. Approx. date work began: MAY '93 Approx. date work ended: NOV. 93
7. Name of contractor as shown on top of contract: BALDWIN CONSTRUCTION, INC.
8. Is the worksite located inside city limits? ___Yes ✓ No
9. If yes, name of City: _____
10. What County is worksite in? LEON
11. Street address of worksite: 6702 CHEVY WAY, TALLAHASSEE, FLA

You can usually get the answers requested below by phone from your local Building Department. The questions relate to building code compliance by the contractor..

12. Was a permit obtained from the Building Department? ✓ Yes ___ No
    a. If no, was a permit required? ___ Yes ___ No
    b. If yes, name of Building Department: DEPT. OF GROWTH & ENVIR. MGMT, BUILDING INSPECTION DIV.
13. Permit Number: 93-833
14. Final inspection passed? ✓ Yes ___ No
15. Who pulled permit? DENNIS RICH, AUTHZ. AGENT OR RAY BURROUGHS, DIR. (UNSURE OF WHOM)
16. Certificate of occupancy issued? ✓ Yes ___ No
17. Was the permit obtained on time? ✓ Yes ___ No
18. Were any inspections missed or performed late? ✓ Yes ___ No (FOUNDATION)
19. If certificate of occupancy was not issued, why? ___

FINANCIAL QUESTIONNAIRE

1. Total contract price: $ 111,000.
2. Total paid to contractor: $ 111,000.
3. What is actual or estimated cost to finish the job if you hire another contractor? $ 50,000 OR MORE
   Attach estimates from licensed contractor. PENDING
4. Have you had to pay subcontractor or suppliers directly? ___ Yes ✓ No
   If yes, how much and why?
5. Have all the draws been paid in a timely manner? ✓ Yes ___ No
6. Are there now unpaid bills owed to subcontractors or suppliers which contractor should have paid? ___ Yes ✓ No
7. What is the total of such unpaid bills? $
8. Did contractor sign any statements to the effect that all bills have been paid? ✓ Yes ___ No
9. Have you fired the contractor N/A Yes ___ No
10. Has the job now been completed by you or a new contractor? N/A Yes ___ No

WORKMANSHIP

1. List the 3 worst items you are complaining about; that you feel are substandard and/or the contractor will not fix. Use a separate sheet if needed. HOUSE WAS NOT BUILT ACCORDING TO PLANS OR IN COMPLIANCE WITH ELEVATION REQUIREMENTS. THE FOUNDATION/ELEVATION DOES NOT COMPLY WITH THE ENGINEERS' INSTRUCTIONS TO BUILD STRUCTURE AT LEAST 2' ABOVE GRADE DUE TO LOWNESS OF LAND. COUNTY INSPECTOR DID NOT CHECK FOR COMPLIANCE. CONSEQUENTLY, THE HOUSE FLOODED ON JUNE 11, 2001 (AND NEAR FLOODED IN OCT. 1994)
2. Has the contractor offered to make repairs? ✓ Yes ___ No BUT HAS RETRACTED
3. Has the contractor made attempts to make repairs? ___ Yes ✓ No
4. If yes, how many times? ___
5. Have you had any other licensed contractor, architect or engineer inspect the work? ✓ Yes ___ No
6. If yes, please furnish a copy of the report. SEE ATTACHMENT(S)

Florida Statutes 837.06, False Official Statements: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

Signature (required to file complaint) — Date: 1-6-02

C→ File
Flooding
Attachment # 1D
Page 20 of 26

BOARD OF COUNTY COMMISSIONERS

JAN 31 2002

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PARWEZ ALAM
County Administrator
(850) 488-9962

HERBERT W.A. THIELE
County Attorney
(850) 487-1008

January 30, 2002

Mr. Tom Baldwin
Marlin Design & Construction, Inc.
3739 Peddie Drive
Tallahassee, Florida 32303

RE: Ranieri Flooding Matter

Dear Mr. Baldwin:

This letter is to advise you that Leon County has thoroughly investigated the matter of flooding at the subject property. The County's building department has determined that, although no specific building code requirements or standards may have been violated, the flooding may have been avoided if the construction had followed the recommendation of the geotechnical engineer to elevate the floor a minimum of 24 inches above grade. *See* Leon County Flood Protection Certification letter from Tallahassee Soil Tech, Inc. While the County has not taken any formal action at this time, we are prepared to assist both parties in resolving this matter as soon as possible.

If you have any questions, please contact the County Attorney's Office.

Sincerely yours,

COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

Herbert W.A. Thiele, Esq.
County Attorney

cc: Honorable Chairman and Members of the Board of County Commissioners
Tom Tomasello, Esq.

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Ms. Loretta Ranieri
P. O. Box 842
Tallahassee, FL 32302-0842

March 15, 2002

Dear Mr. Thiele,

Please find enclosed a copy of the letter I wrote to Ms. Heiker, Project Manager of Leon County.

Thank you for your assistance.

Sincerely,

Loretta Ranieri

Ms. Loretta Ranieri
P. O. Box 842
Tallahassee, FL 32302 0842

March 15, 2002

Dear Ms. Heiker,

We have conversed a couple of times regarding the serious flooding problem of home and property at 6702 Chevy Way.

I am writing to you because I believe that you and the County can help me with this serious problem. As you know, my home and land flooded, again, the weekend of March 1st. This is the third time since June 12th, 2001 that water has entered my home. The first two times were last June. Days after the flood of June 12th, 2001 we had heavy rains

which led to water rising again because the ground was still saturated, and further flooding my home.

After I talked to you, Thursday, February 28TH, I took your advice and called FEMA. They would not take a claim because the storm on March 1ST had not been declared a disaster.

Please recap for me how one is eligible for the County Buy Out Project. What is the name of the project and what are the guidelines?

I am asking you, please, to be placed on that list as one of the areas to be bought out.

It would cost many tens of thousands of dollars to build holding ponds near my house, then, still, because of the lowness of the land, another 50 or 100 year flood would again destroy my property. I've been told this by experts.

Please help.

Sincerely,

Loretta Ravieri

xc Herb Thiele, Esquire
County attorney

Marlin Design & Construction, Inc.

CERTIFIED
GENERAL CONTRACTOR
CGCA 009872
(850) 576-3978

June 26, 2002

State Of Florida
Ken Morrison
Regional Office II
1940 N. Monroe Street
Tallahassee, FL 32399-2218

RE: Case NO. 200200284

Dear Ken Morrison,

I am in receipt of you correspondence dated June 12, 2002, concerning the complaint by Ms. Raneri. My response is as follows:

First, let me state, that the single family residence was built to the standards of the Southern Building Code Congress, the State of Florida, and the Leon County Building Department. The plans were submitted and approved by Leon County Building Department, all inspections were made and a signed job hard card, was submitted for the Certificate of Occupancy, which was forwarded to Ms. Raneri and her lender. Ms Raneri's complainant states poor workmanship, and the job is finished but we will not correct problems. Neither of these really apply to this situation in as much as Ms. Raneri has never contacted me with any construction related deficiencies until her flooding problem occurred, which was created due to the items listed below.

In the original contract, between Baldwin Construction, Inc. CGC009872, and Ms. Raneri, there was no specified floor elevation due to the fact that Ms. Raneri's land was not located in or near the flood plain, which would have required a raised floor elevation. When the soil tests and flood letters were completed there was a notation of a suggested height by the owner of Soil Tech ? who is not a licenced engineer. When questioned as to the recommendation, Don Bishop maintained that this had only been a suggestion, and not based on any requirement by any agency data. These reports were submitted, along with all other required forms to the County Building Department. Accompanying those forms, were the septic system evaluations and inspections, which had been approved by the Environmental Department. These also neglected to require a specified height after their physical inspection of the building site. I met Ms. Raneri multiple times at her lot, in part for placement of the home prior to finishing my drawing of the plot plan for the submittal of permits. At one of those

meetings, it was decided to move the home forward on the lot from where she wanted it to be, which also raised the foundation height due to the contour of the land. Had it been placed at MS. Raneri's preferred location, it would have been at an even lower area of the lot.

I do not remember Ms. Raneri contacting me with information of a near flood on her property in 1994, nor the circumstances of the rain fall during that time period. My latest correspondence with her has resulted with all information being turned over to my Attorney. This is due to the fact that the County Agency responded in writing to Ms. Raneri, **without** my authority, saying that I would in part, correct her flooding problems, which I never represented I would do. This is a separate issue being addressed with the County agency. I went to her home at the time she called in 2001, along with my superintendent and a building official, to evaluate the situation. During that meeting Ms. Raneri told us that she had carried flood insurance until recently, when she had refinanced her home and the new lender did not require it. At that time I dug to the base of the foundation a recorded a height of 17 inches. This is only 7 inches below what she represents as a required minimum height. After that meeting, I discussed the fact with the County inspector, that even if the foundation had been at a 24" elevation, there would have been 12" of water in the home as opposed to the 17" that were there. At that time I explained to her that I had no control over the 11.5 inches of rain that fell in that 10 hour period but that I would look into the problems. We no longer had the files available, since her house was completed 9 years prior. We had no access to the original contract, plot plans, approved county plans etc., until she provided these in her law suit. Upon receipt of these documents from her attorney I realized I was not in default in any way.

I have done research with the National Weather Service on the recorded rain fall amount during the times she had the flooding problems, and learned that these were exceptional on each date, creating 125 year flood data. This home is located in a subdivision that had rural dirt roads that were in place when this home was constructed . These roads were paved by their home owner's association approximately two years ago, adding to the run off problem in this area.

I feel badly for Ms. Raneri, but in no way do I feel the flooding problem is due to any improprieties on my part.

If you need to reach me for further discussion, please call me at 545-7621.

Sincerely,

Tom Baldwin
Marlin Design and Construction, Inc. CGCA 09872